

AF/ 2871  
**REISSUE**  
**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Suzuki et al.

**Examiner:** K. Parker

**Serial No.:** 09/241,989

**Group Art Unit:** 2871

**Filed:** February 2, 1999

**Docket:** JA992-011 (872831)

**For:** OPTICAL FILM AND LIQUID CRYSTAL  
DISPLAY DEVICE USING THE FILM

**BOX REISSUE**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

#19/Response  
Marsha  
1/22/02

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**RESPONSE**

The following remarks are made in response to the Office Action of September 24, 2001.

The present reissue application was finally rejected and applicants have appealed the final rejection. Applicants' Appeal Brief was filed with the Board of Patent Appeals and Interferences on April 6, 2001.

**CERTIFICATE OF MAILING 37 C.F.R. § 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 December 27, 2001.

Date: December 27, 2001

  
Frank Chau

By Office Action dated September 24, 2001, the amendment as filed on November 30, 1999 was objected to for introducing new matter into the disclosure. The Examiner stated "the added material which is not supported by the original disclosure is as follows: the description of and reference to pitch variations in the prism."

Applicant respectfully disagrees that new matter was introduced into the disclosure by the amendment of November 30, 1999. In that amendment, correction to a typographical error was made to Figure 5 of the drawings to add a "minus" sign underneath the "plus" sign to make Figure 5 consistent with the same figure in the corresponding priority document, JP4-246225. No description was added to the specification of the application. Thus, there was no new description introduced in the specification including the drawings. The Examiner's withdrawal of the objection is respectfully requested.

Claims 28 to 43 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification conveyed to one skilled in the relevant art that the inventor at the time of the application was filed had possession of the claimed invention. The Examiner stated "the figure that shows 'pitch=150+/-10um' still shows a single pitch, not multiple pitches between peaks. Those of ordinary skill would construe this as it is stated- that the pitch (a single pitch) should be set at 150 +/- 10 um, not that there should be different pitches from prism to prism. The language does not exclude the possibility of variations, however it does not provide description of variations in pitch from prism to prism ... Applicant has given no indication of how or why the pitch should be varied. Although one could make pitches that vary, without known (sic) why they are doing it, or how it should be done, they would not be able to make a variation

which is one which is the subject of the invention.”

The rejection is respectfully traversed. Applicant respectfully disagrees that 35 U.S.C. §112, first paragraph, requires that an applicant has to give indication of how or why the pitch should be varied. §112, first paragraph only requires that there is an enabling disclosure of the claimed feature.

The pertinent claim language under rejection is (in claim 28), “a variation in pitches between the tops of adjacent isosceles triangle prisms” and (in claim 29) “wherein said variation is less than 10% of the distance of the pitches”. Figure 5 of the drawings depicts two isosceles triangles arranged side-by-side wherein dotted lines were drawn from the peaks of the triangles and an arrow spanning the two dotted lines is accompanied with the text of “pitch =150 +/- 10um”, describing the distance between the triangles. To any scientist or engineer, this drawing shows that the pitch between any two neighboring triangles can vary from 140 to 160um. To one ordinarily skilled in the art of the invention, the plus or minus 10um is viewed as the tolerance of the pitch when the film including the isosceles triangles is made. Therefore, it is clear from viewing Figure 5 that there is “variation in pitches between the tops of adjacent isosceles triangle prisms” and the “variation is less than 10% of the distance of the pitches” because 10um is less than 10% of 150um, as claimed in claims 28 to 41. Because the drawing is plain and clear and the use of plus or minus is well known to those ordinarily skilled in the art to show variations or tolerances, applicant respectfully submits that one ordinarily skilled in the art is able to practice the claimed feature without undue experimentation. Accordingly, claims 28 to 41 are believed to satisfy the requirements under §35 U.S.C. 112. The Examiner’s reconsideration of the rejection is respectfully requested.

Claims 8 to 41 were rejected as based upon a defective oath/declaration under §35 U.S.C. 251. The Examiner stated that changes made [in amendments A, B, C] do not appear to be covered by the reissue declaration of record. A supplemental reissue declaration is required.

Applicant respectfully requests that the filing of a supplemental reissue oath/declaration be held in abeyance until indication that the claims presently pending are allowable.

Claims 8, 9, and 11 to 41 were rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based.

Applicant respectfully disagrees that claims 8, 9 and 11 to 41 claim subject matter which was surrendered in the application for the patent upon which the present reissue is based. Applicant argued at length on this issue and applicant's position on this rejection was made of record in the Appeal Brief as filed before the Board of Patent Appeal and Interferences. Applicant restates herein the remarks made in the Appeal Brief in response to the rejection. A copy of the Appeal Brief is submitted herewith for the Examiner's convenience.


The Office Action also indicated that applicant's IDS of November 27, 2000 incorrectly stated that several Japanese references had translations but no translations were provided other than translated abstracts.

The Examiner is correct. Only translated abstracts were available to the applicant at the time that IDS was submitted. Applicant has since translated the cited Japanese references. These translations including other references and their translations are

submitted in a new Information Disclosure Statement filed herewith. The Examiner's due consideration of the references is respectfully requested.

For the foregoing reasons, the present reissue application, including claims 1 to 9, 11 to 13, 15 to 20, 22 to 24, 26, 28, 29, 31, 32, 35 to 38, 40 and 41, is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully urged. Should the Examiner have any questions in connection with this matter, he is invited to contact the undersigned.

Respectfully submitted,



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In re application of Suzuki et al.

Serial No.: 09/241,989

Group: Art Unit 2871

Filed: February 2, 1999

Examiner: K. Parker

For: OPTICAL FILM AND LIQUID CRYSTAL  
DISPLAY DEVICE USING THE FILM

BOX REISSUE

Assistant Commissioner for Patents  
Washington, D.C. 20231

AMENDMENT TRANSMITTAL FORM

Sir:

Transmitted herewith is an amendment in the above-identified application.

[ ] Small entity status of this application under 37 C.F.R. § 1.9 and 1.27 has been established by a verified statement previously submitted.

[ ] A verified statement to establish small entity under 37 C.F.R. § 1.9 and 1.27 is enclosed.

[X] No additional fee is required.

The fee has been calculated as shown below:

	(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN SMALL ENTITY
CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	ADDIT. RATE FEE	OR	ADDIT. RATE FEE
TOTAL	32 MINUS 41	= 0	X 9 \$		X 18 \$
INDEP.	8 MINUS 8	= 0	X 42 \$		X 84 \$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM			X 140 \$		X 280 \$
TOTAL			OR TOTAL \$		

ADDIT. FEE \$

- \* If the entry in Co. 1 is less than entry in Col. 2, write "0" in Col. 3.  
\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter 20".  
\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".  
The Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

[ ] Please charge Deposit Account No. 50-0510/IBM (Yorktown Heights) in the amount of \$\_\_\_\_. Two (2) copies of this sheet are enclosed.

[ ] A check in the amount of \$\_\_\_\_ is enclosed.

[X] Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. § 1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 50-0510/IBM. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 50-0510/IBM therefor. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

Respectfully submitted,

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231 on December 27, 2001.

Dated: 12/27/01

Frank Chau



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